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ARIZONA ATTORNEY GENERAL

February 8, 1980

INTERAGENCY

The Honorable Lillian Jordan
Arizona State Representative
House Wing, State Capitol
Phoenix, AZ 85007

Re: 180-017 (R80-016)

Dear Representative Jordan:

In your letter to this office dated January 16, 1980, you asked for our opinion concerning the circumstances, if any, under which funds held by a school district for the payment of bonded indebtedness may be subtracted from the total of such indebtedness to determine the amount thereof outstanding for the purpose of §§ 8 and 8.1 of Article 9 of the Arizona Constitution.

The aforementioned Arizona constitutional provisions limit the indebtedness of various Arizona governmental entities, including school districts, to certain specified percentages of the value of the taxable property located within the entities' boundaries. Your question then is whether indebtedness evidenced by outstanding bonds is treated as outstanding for the purpose of these provisions if the governmental entity which is obligated on the indebtedness has funds on hand to pay it.

If the funds which the governmental entity has on hand may be used only to pay such indebtedness, then the indebtedness is not treated as outstanding for the purpose of the previously-mentioned constitutional provisions. The Arizona Supreme Court so held in Morgan v. Board of Supervisors, 67 Ariz. 133, 136-137, 192 P.2d 236 (1948):

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. . . [T]he authorities disclose practical unanimity in holding that in determining the indebtedness of a district, within the constitutional provision limiting indebtedness, a sinking fund reserved and pledged for the payment of existing bond obligations may be deducted in computing outstanding bonded indebtedness. City of Stamford v. Town of Stamford, 107 Conn. 596, 141 A. 891, 896; First National Bank v. City of Jackson, 199 Ky. 94, 250 S.W. 795; Kirk v. School Dist. No. 24, 108 Okla. 81, 234 P. 596. . . .
See also 56 Am.Jur.2d, Municipal Corporations, § 670.

Should you have any questions concerning the foregoing, please let me know.

Sincerely,



BOB CORBIN
Attorney General

BC/mm